

EXHIBIT

10

7.20-21

U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL

MEMORANDUM OF INVESTIGATIVE ACTIVITY

On February 10, 2020, Assistant Special Agent-in-Charge (ASAC) Laura Slatton, Office of Inspector General (OIG), U.S. Department of Energy (DOE), and SA K.J. Sadiku, Federal Bureau of Investigations (FBI), and, Assistant U.S. Attorney (AUSA) Casey Arrowwood met with the following University of Tennessee, Knoxville (UTK) officials:

- Mr. David Whitcomb, Deputy General Counsel; 865-974-0328; david-whitcomb@tennessee.edu;
- Ms. Jean Mercer, Assistant Vice Chancellor for Research/Director, Office of Sponsored Programs; 865-974-2465; jmercerc@utk.edu;

ASAC Slatton and SA Sadiku had previously identified themselves as Special Agents during previous UTK meetings. This meeting was regarding an ongoing investigation of UTK Professor Mr. Anming Hu and his affiliations with Chinese universities and foreign government talent recruitment programs.

According to Mercer, Hu's UTK salary is fixed. Any grant funds he brings in through the university does not supplement his salary. It off-sets UTK's general funds. The benefit to professors in obtaining grants is an incentive for promotions and tenure opportunities. It is expected that UTK professors obtain grants to bring in funding for the University. There is a grace period for new hires; but after three years or so, professors are expected to generate grant income.

AUSA Arrowwood asked for clarification on two National Aeronautics and Space Administration's (NASA) Assurance forms. Specifically, one for 3D functionally graded adhesive bonding technique for joining metal/composite and one for microgravity effects on molten metal flow of rapidly heated new generation nano-braz and traditional braze materials. (See attached, first 3 pages.) According to Mercer, Hu was advised about NASA's restrictions regarding Chinese affiliations for these proposals. Mercer provided a copy of an email chain between Hu and a UTK employee advising Hu about the restriction. (See attached, next 4 to 8 pages.) Although the proposals were submitted to NASA, UTK was not awarded those grants.

As for the two NASA grants Hu did receive, one at Marshall Space Center and the other at the Jet Propulsion Lab, Mercer said there was no separate assurance form for those; but Mercer understood that by her signing the grants on behalf of UTK, she was assuring NASA that UTK and Professor Hu was in compliance with the China restriction because the clause in the NASA contract was clear on this subject.

Mercer explained that in 2016 and 2017, UTK did not compare conflicts of interest forms with grant applications because her department did not have access to them. At the time of the award, UTK's export control officer would have a conversation with the professor on a case by case

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basis. However, that has changed and Mercer's department now has access to conflicts of interest forms to be reviewed as part of UTK's grant process.

According to Mercer, UTK will invoice a grant based on the terms of the grant. Sometimes a flag is set up in their system to generate an invoice monthly, quarterly, etc. Sometimes invoices will be generated when certain milestones are reached. That is usually a conversation with the research staff or principle investigator. Sometimes an invoice is generated when progress reports are received. It's just whatever the grant stipulates.

Mercer advised ASAC Slatton that Hu had a new subcontract with UT-Battelle, DOE's Oak Ridge National Laboratory's prime contractor. Specifically, subcontract 4000170601 for \$35,068 with a period of performance May 8, 2019 to September 30, 2020. Hu's salary on that contract is \$7,657.60 with approximately \$2,000 in fringe benefits. On February 14, 2020, pursuant to her request, SA Slatton received a copy of this subcontract and modification one. (See attached, next 9-24 pages.)

In addition, UT-Battelle subcontract 4000149584 had a modification (No. 6) on December 18, 2019. The value was increased to \$165,038 and the period of performance was revised to August 19, 2016 to September 30, 2020. This new modification also included a "Prohibition Against Participation in Certain Foreign Government Talent Recruitment Programs (DOE Order 486.1). The prohibition states, "Seller employees who are assigned to perform work under this Agreement, whether at the outset or at any subsequent point, are prohibited from participation in Foreign Government Talent Recruitment Program (FGTRP), as determined by the Department of Energy (DOE). Each assigned employee is required to prepare and sign Company form BSD-CS-2252 entitled 'Foreign Government Talent Recruitment Program Acknowledgement Form – Subcontractor Employee'." (See attached for clause in its entirety.) Mercer also provided another copy of this acknowledgment form signed by Hu on 12/20/2019 stating he was not currently participating in a FGTRP. (See attached, next 25-26 pages.)

Finally, Mercer provided a copy of a recent email correspondence pertaining to a new proposal Hu was submitting to NASA. The emails were regarding the NASA assurance and were between Hu and a UTK Office of Sponsored Programs Administrator, Tiffany Bell. (See attached, next 28-29 pages.) Specifically, on December 13, 2019 at 3:08 pm, Bell sent Hu and Seungha Shin an email informing them about NASA's restriction against collaborating, coordinating, or participating with China and attached a copy of the assurance form for their review. At 3:14 pm Hu replied to Bell's email stating he had read through the letter and confirmed that he would "fully obey the policy." On February 14, 2020, Mercer provided a copy of the assurance letter attached to the email to Hu. (See attached, last page.)